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UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
vs. : Case No. 4:13-cr-00088
:
SEAN MICHAEL WARD, : SENTENCING HEARING TRANSCRIPT
:
Defendant. :
- - - - - X

Courtroom, First Floor
U.S. Courthouse
123 East Walnut Street
Des Moines, Iowa
Wednesday, September 10, 2014
2:00 p.m.

BEFORE: THE HONORABLE STEPHANIE M. ROSE, Judge.

APPEARANCES:

For the Plaintiff: CLIFFORD D. WENDEL, ESQ.
Assistant U.S. Attorney
U.S. Courthouse Annex
110 East Court Avenue, Room 286
Des Moines, Iowa 50309-2053

For the Defendant: ERIN M. CARR, ESQ.
Carr & Wright, P.L.C.
300 Walnut Street, Suite 140
Des Moines, Iowa 50309

KELLI M. MULCAHY, CSR, RMR, CRR
United States Courthouse
123 East Walnut Street, Room 115
Des Moines, Iowa 50309

P R O C E E D I N G S

(In open court.)

THE COURT: Thank you. You can be seated.

We are here today in the matter of United States vs. Sean Michael Ward. It's Case No. 4:13-cr-00088. With us on behalf of the United States is AUSA Cliff Wendel. On behalf of Mr. Ward is Erin Carr. Mr. Ward appears personally. Representing the United States Probation Office is Kristin Herrera.

Mr. Ward, do you recall being in court on May 19th and entering a guilty plea to a one-count indictment that was filed against you in July of 2013?

DEFENDANT WARD: Yes, Your Honor.

THE COURT: And specifically, you pled guilty to possessing a firearm as a felon; is that right?

DEFENDANT WARD: Yes, Your Honor.

THE COURT: And you understand that this offense is punishable by up to ten years in prison, a fine of up to \$250,000, supervised release of up to three years, and a \$100 special assessment? Do you remember those penalties from the time of your plea hearing?

DEFENDANT WARD: Yes, Your Honor.

THE COURT: And you understand you're here today to be sentenced?

DEFENDANT WARD: Yes, Your Honor.

1 THE COURT: The Court has received and read the
2 Presentence Investigation Report. The most recent report is
3 dated August 14th of 2014, and it's filed at Docket 46.

4 I've also received and read the original sentencing
5 memorandum filed by Mr. Carr on your behalf, Mr. Ward, at Docket
6 49, as well as the supplemental memo filed at Docket 53, and I
7 have received letters from your daughter, mother, former
8 landlord, and pastor.

9 I have also received and read the original sentencing
10 memorandum filed by the Government at Docket 48 as well as the
11 Government's supplemental motion filed -- or I should say
12 memorandum filed at Docket 52.

13 I appreciate very much the parties taking the time to
14 research and supplement their memoranda related to the armed
15 career criminal application here. I have reviewed the cases
16 that you both cited. I agree with your analysis. I think here
17 that Mr. Ward does not qualify as an armed career criminal.

18 Mr. Wendel, on behalf of the United States, have you
19 had a chance to review the Presentence Investigation Report?

20 MR. WENDEL: I have, Your Honor.

21 THE COURT: And having resolved that armed career
22 criminal issue that we had talked about some weeks back, it
23 looks to me like there are three remaining issues to be resolved
24 today; the number of guns involved in the offense, whether the
25 gun involved in the offense was stolen, and whether or not that

1 gun was possessed in connection with another felony offense.

2 Are there any other issues, from the Government's
3 perspective, that we need to resolve today?

4 MR. WENDEL: No, Your Honor.

5 But with relation to those issues, at the time that
6 the prior sentence was set, I had the witnesses available, and
7 after I talked to them on the first issue and the last issue, in
8 other words, the number of firearms and use in another felony,
9 two of the witnesses recanted their testimony from the time of
10 the original arrest of Mr. Ward, and, based on that recanting of
11 their testimony, the Government will not be proving up those two
12 issues, which would be the number of guns and the use of the
13 firearm in relation to another felony.

14 THE COURT: Which two witnesses recanted their
15 information?

16 MR. WENDEL: The two females, Ms. Wynter Hudson and --
17 I have it -- Ms. Sarah Clendaniel.

18 THE COURT: Okay. So the only issue, from the
19 Government's perspective, left to resolve is whether the firearm
20 was stolen?

21 MR. WENDEL: Correct.

22 THE COURT: Mr. Carr, did you have a chance to review
23 the presentence report with your client?

24 MR. CARR: Yes, I did, Your Honor.

25 THE COURT: Could you just make a brief record of how

1 you did that? In other words, did you meet with him in person,
2 did you mail it to him?

3 MR. CARR: Yes, Your Honor. I did meet with him in
4 person. We had quite an extensive meeting at the Polk County
5 Jail where we went through the presentence report line by line,
6 paragraph by paragraph, noting what it was that we wished to
7 object to, if there were any changes that need to be made. We
8 reached a mutual resolution as to what we wanted to object to
9 and then I filed my objections as noted on the Court's docket.
10 So that meeting did take place in person. It was prior to my
11 filing my objections.

12 THE COURT: Thank you, Mr. Carr.

13 And based upon the discussion I've had with
14 Mr. Wendel, it looks like the only issue, other than a
15 determination of ultimate sentence to be resolved here today, is
16 that issue related to the stolen weapon. Is that your
17 understanding as well?

18 MR. CARR: That's my understanding, Your Honor.

19 THE COURT: Okay. Mr. Ward, did you have plenty of
20 time to look at your presentence report with Mr. Carr?

21 DEFENDANT WARD: Yes, Your Honor.

22 THE COURT: I know it's been a number of pretty major
23 shifts in how those guideline adjustments could apply to you
24 recently. Have you had enough time to have Mr. Carr answer your
25 questions about those issues?

1 DEFENDANT WARD: Yes, Your Honor.

2 THE COURT: Have you been happy with him as your
3 lawyer so far?

4 DEFENDANT WARD: Yes, Your Honor.

5 THE COURT: Okay. Then let's go ahead and talk about
6 our guidelines in this case. With respect to the number of
7 firearms and the in connection with another felony offense,
8 based upon the objections that were filed by Mr. Ward and the
9 lack of evidence now related to those particular adjustments, I
10 will find that those should not be applied.

11 So that leaves us with the stolen firearm adjustment.
12 Mr. Wendel, do you wish to present any evidence with respect to
13 that? It is an adjustment that the Government bears the burden
14 of proof on.

15 MR. WENDEL: Your Honor, having read the objection,
16 the defendant did not object to the fact that the firearm was
17 stolen; his objection was based on the defendant didn't know the
18 firearm was stolen. With that being the case, both Application
19 Note 8(B) and the case cited by the Government in their brief
20 indicate that the defendant doesn't have to know that the
21 firearm is stolen. The application note applies.

22 THE COURT: In the defendant's sentencing memorandum,
23 he did say that he did not agree that the firearm had been
24 stolen, and that's on page 5 of his brief. He denied -- here
25 it's the second line of that paragraph, "Defendant denies that

1 the weapon was stolen or that, if the weapon was stolen, he had
2 any knowledge that it was stolen."

3 Certainly he doesn't have to know under the current
4 law that the gun was stolen for the enhancement to apply, but I
5 think we do have to have some evidence that the gun was, in
6 fact, stolen, and the facts outlined in the presentence report
7 do not clearly establish that the gun seized from him was, in
8 fact, a stolen gun.

9 Do you have any evidence by way of law enforcement
10 testimony or something else that the gun that was seized from
11 him on the 26th, January 26th, was, in fact, a gun that was
12 stolen presumably on the 25th?

13 MR. WENDEL: No, Your Honor.

14 THE COURT: Okay. Mr. Carr, any argument you'd like
15 to make on that particular issue?

16 MR. CARR: Your Honor, I think the Court has correctly
17 set the record. I think our objection was both to whether the
18 gun was stolen and then whether my client would have had any
19 knowledge of it. I would agree that knowledge is not relevant
20 for the purposes of the sentencing; however, we did object to
21 whether the gun was actually stolen. There's no evidence before
22 this Court that would indicate that the gun was stolen, and
23 therefore we do not believe that the enhancement listed in that
24 paragraph applies.

25 THE COURT: I agree here. I do find Government has

1 failed to establish by a preponderance of the evidence that the
2 gun was stolen. The offense as outlined in the presentence
3 report does not clearly establish that essentially the -- it was
4 described as an RG Industries Model RG14 .22-caliber handgun
5 that was seized from Mr. Ward's apartment on January 26th was a
6 stolen weapon. I don't have any evidence before me of a
7 property listing it as stolen. I don't have an ATF check that
8 shows it was stolen. I don't have any witness testimony that
9 would indicate this gun was stolen from anyone in particular.

10 I do have a fair amount of circumstantial evidence,
11 but most of that has been objected to and apparently now
12 recanted, and so in light of that, I just can't find that the
13 Government has proven that particular adjustment.

14 So based upon that ruling and the other issues that
15 have arisen today, we find ourselves at a base offense level of
16 24. There are no upward adjustments. There is a two-level
17 downward adjustment for acceptance of responsibility.

18 Is the Government moving for that third level as well?

19 MR. WENDEL: Yes, Your Honor.

20 THE COURT: So that results in another level being
21 removed, which gives us a total offense level of 21. Mr. Ward
22 is a criminal history category of VI, which leaves us with an
23 advisory guideline range of 77 to 96 months' imprisonment.
24 Probation is not recommended by the guidelines. Supervised
25 release of between one and three years is recommended.

1 The suggested fine range would be \$7,500 to \$75,000,
2 although here I don't intend to impose any kind of a fine, and
3 there is a \$100 special assessment.

4 Mr. Wendel, with respect to a final sentence in this
5 case, what is the Government's recommendation?

6 MR. WENDEL: The Government believes that the low end
7 of the guideline is sufficient in this case, Your Honor.

8 THE COURT: Mr. Carr, what is Mr. Ward's
9 recommendation with respect to a sentence in this case? And if
10 you could alert me if there are any special requests for
11 programs or placement or things of that nature as well.

12 MR. CARR: Thank you, Your Honor.

13 Pursuant to the brief that we filed, Mr. Ward is
14 asking for a downward departure from the sentencing guidelines
15 based upon the factors found in 18 U.S.C. Section 3553.
16 Specifically, Your Honor, the Presentence Investigation Report
17 notes that my client has a fairly significant mental health
18 history, having been diagnosed with depression, anxiety,
19 schizophrenia, bipolar disorder, and PTSD, which, as I believe
20 as noted in the presentence report, is actually from his prior
21 incarceration where he witnessed some rather gruesome things.

22 Furthermore, Your Honor, in reading through the
23 Presentence Investigation Report, it outlines my client's
24 childhood and how from a very young age he was exposed to drugs
25 and violence, and that's something that is basically all he's

1 known not only in his adult life but really since adolescence.

2 So we cited the case of California vs. Brown, where
3 Justice O'Connor noted that defendants who commit criminal acts
4 that are attributable to a disadvantaged background and to
5 emotional or mental problems may be less culpable than
6 defendants that have no such excuse.

7 We believe that Mr. Ward is tailor-made for that
8 sentiment. The fact remains while Mr. Ward has a very
9 significant criminal history, as is noted in the Presentence
10 Investigation Report, pretty much all of that has to do with
11 being exposed to violence and drug use throughout his entire
12 life through pretty much anybody who would be considered to be
13 an influence upon his life.

14 However, after his last incarceration, Mr. Ward made
15 some very positive changes and he noted that he found sobriety
16 for the first time in his life and was actually able to build
17 upon that progress and, as the Court notes from some of the
18 letters that were submitted to the Court, actually became
19 involved somewhat in a church and community to the extent that
20 he was being a positive member of our society and working toward
21 becoming productive.

22 We are asking for a downward departure, Your Honor,
23 based upon these factors, to 60 months. We believe that that
24 sentence is sufficient underneath the factors that are listed in
25 Section 3553. We believe it is appropriate given the fact that

1 Mr. Ward is not similarly situated to some other individuals we
2 would see here and that perhaps his criminal activities could be
3 explained by things that were perhaps out of his control from a
4 very young age.

5 Given the recent progress that he's made in his life,
6 we would like that sentence to be as short as possible to get
7 Mr. Ward back out amongst the people that he's identified in the
8 community that are good positive influences on him, allow him to
9 raise his children, to become a protective member of society.

10 THE COURT: Thank you, Mr. Carr.

11 Mr. Ward, this is the time in the sentencing hearing
12 when you're allowed to say what you might want to say to me or
13 to the people who are here to support you. You don't have to
14 say anything, but I'm happy to hear anything you might wish to
15 say.

16 DEFENDANT WARD: Thank you for allowing me to speak.

17 First I'd like to say that I'm sorry to my family for
18 letting them down again, and thank you -- thank you for
19 supporting me.

20 Like Mr. Carr said, a lot of my life has been plagued
21 by drug addiction, up until the last five years. I was doing
22 good, taking care of a handicapped friend, staying drug-free.
23 It was just one incidence that I relapsed and this incident
24 happened.

25 So thank you for letting me talk.

1 THE COURT: Thanks, Mr. Ward.

2 Mr. Ward, I'm sure Mr. Carr has talked to you about
3 how federal sentencings work, and you've been through the system
4 once before so you have a basic understanding of how this works,
5 but the Eighth Circuit is the court that governs judges like me
6 here in the Midwest who sentence people, and they've said that I
7 have to take three steps in imposing a sentence.

8 The first step is to look at the statutory maximum
9 penalties that could apply, and that's why at the beginning of
10 your hearing we talked about things like the maximum penalty and
11 the \$250,000 fine that could potentially apply.

12 The second step is to consider what the guidelines
13 advise, and that's why we spent time talking about levels up and
14 levels down and criminal history categories and why we spent all
15 the time trying to figure out whether you were an armed career
16 criminal or not.

17 The third step is, in my view, the most important
18 step, and it's what's called a 3553(a) analysis. That's
19 something that means nothing to people who don't practice
20 federal criminal law, but it's basically a list of circumstances
21 about the crime and about the person who committed it. And in
22 my view, this is the most important step of all of those that
23 the judges take at the time of sentencing.

24 You certainly had a rough childhood, there's no
25 question about that. Unfortunately, that has manifested in a

1 very violent adulthood for you, and that's quite concerning.

2 This particular offense on paper is quite simple; you
3 had a gun, you were a felon. But the facts of it are that you
4 stabbed a man at the gas station, and while the police were
5 investigating that stabbing, they found a firearm at your
6 apartment as well as drug paraphernalia and ammunition for that
7 gun.

8 You are a 35-year-old man. Your childhood, which we
9 talked about, was very chaotic. You were raised in an
10 environment essentially associated with a motorcycle club. You
11 saw people stabbed, shot, assaulted. That was a regular part of
12 your existence as a child, and I can only guess how that
13 impacted you and what you see as a normal view of the world. By
14 10 you were using drugs, by 13 you were selling drugs. Again,
15 those aren't real surprising given the way in which you were
16 being raised.

17 You, unfortunately, have this extremely long,
18 extremely violent criminal history, and I have to consider that
19 in deciding what to do with you. You have some lesser offenses
20 and then you have some very serious offenses, and over and over
21 again you've been unable to do well under supervision.

22 And so we've got you start with a theft and probation
23 is revoked and then you get an OWI and probation is revoked and
24 then you harbor a runaway and probation is revoked.

25 You have your first assault conviction where you kick

1 a woman in the head, then you get a domestic abuse assault
2 conviction for punching your wife in the stomach, and then you
3 cart her away from the house after she fell to the ground after
4 you punched her, you leave your 7-month-old baby in the house
5 crying alone while this is all going on, and again probation is
6 revoked on that particular charge.

7 Then you have the assault with a dangerous weapon
8 which involves you stabbing not one but two different men, and
9 again parole is revoked. Then assault using a dangerous weapon
10 where you threaten somebody else with a gun, then driving
11 without a license, harassment for threatening with a knife an
12 ex-girlfriend who you forced out of her car and into her house
13 while threatening to slit her throat, possession of marijuana,
14 conspiracy to manufacture methamphetamine.

15 And another federal conviction for illegal possession
16 of firearms that you just got off paper for in April of 2012.
17 Again, there you had supervised release revoked in that case as
18 well, and you literally came off paper in April of 2012, and
19 this all happens in January of 2013, so nine months later this
20 is all going on.

21 You have three children, and I know from letters that
22 they clearly care about you and support you, and you do have, as
23 your lawyer said, some very serious mental health issues, very
24 serious mental health issues, that undoubtedly have contributed
25 to what's going on with you, and very, very serious substance

1 abuse issues, including addictions to heroin, methamphetamine,
2 marijuana, alcohol, and prescription drugs.

3 Now, on the plus side you've got a college education
4 or at least some college education. You worked hard.
5 Interestingly enough, through all of this you've managed to
6 work, which tells me you have it in you to be a productive
7 person.

8 I was glad to hear that you had periods of sobriety so
9 you know what that feels like, you know what you're working
10 towards, but I look at your history of violence and it's very
11 concerning. And it's not only violence, it's violence with
12 weapons. And, you know, they arrest you in this case, and what
13 do you have? You have more knives. I mean, you just can't --
14 even though felons can have knives, they are apparently not a
15 good idea for you to have, and your judgment is obviously
16 impaired in those kinds of scenarios.

17 So looking at all of those facts, I do think a
18 guideline sentence for you is an appropriate sentence, and in
19 your particular case, given the proximity of this crime to the
20 last crime and the serious nature of this particular crime, I
21 actually think the top of your range is the appropriate place to
22 sentence you.

23 So I do order a sentence of 96 months in prison. I
24 will recommend to the Bureau of Prisons that they place you as
25 close to your family as possible unless you've got some other

1 request. I know you've done some time in federal prison. Is
2 there a particular facility that you prefer?

3 DEFENDANT WARD: Oxford or Pekin.

4 THE COURT: Okay. I'll recommend that if you qualify
5 for either Oxford or Pekin that they place you in those
6 locations and if you don't qualify for those that they place you
7 as close as possible to your family.

8 Is most of your family located here in this area?

9 DEFENDANT WARD: Yes, Your Honor.

10 THE COURT: Okay. So I'll ask them to place you as
11 close to Des Moines as possible, then.

12 Upon release you will serve a term of three years of
13 supervised release. As part of that supervised release, you'll
14 report to the probation office within 72 hours of coming out of
15 prison. You'll have all the standard conditions of supervision
16 that you are familiar with; you can't use drugs, you can't have
17 guns, you can't commit new crimes, things like that.

18 You'll also have some special conditions of
19 supervision that relate to individualized and particularized
20 needs that you have based upon your history, and all of these
21 particular special conditions are aimed at either helping you
22 get treatment you need or helping keep probation officers who
23 may be supervising you safe while they're doing that.

24 The first special condition is that you continue to
25 participate in a program of testing and treatment for substance

1 abuse. And, again, the probation office will explain that to
2 you more. If you're required or if they recommend any kind of
3 inpatient or outpatient treatment or medication, you're going to
4 have to comply with what they recommend.

5 Because you do have a history of alcohol abuse, I am
6 going to prohibit you from consuming alcohol at all during the
7 term of supervised release. And because you cannot consume
8 alcohol, you also cannot be in businesses that make more than
9 half of their income from the sale of alcohol. What that means
10 is you can go into a restaurant that happens to serve alcohol,
11 you can't order the alcohol, but you can't be in bars that just
12 happen to serve nachos or something along those lines. Does
13 that make sense?

14 DEFENDANT WARD: Yes, Your Honor.

15 THE COURT: You're going to continue to participate in
16 mental health evaluation and treatment as recommended by the
17 probation office. You've got some pretty serious conditions,
18 and they're going to continue to help you tackle those. Could
19 be as simple as a chemical imbalance in your brain that requires
20 medication.

21 It's a miserable way to live life the way you've been
22 living it, and that's something you can't fix. You can't will
23 away a biological chemical imbalance. Medication will help you
24 with that.

25 You're also going to participate in a program of anger

1 management and domestic violence prevention, again, at the
2 direction of the probation office, to help resolve some of those
3 issues that we've seen crop up in your past.

4 You're going to participate in a program of -- a
5 cognitive behavioral treatment program. That's basically
6 journaling, thinking exercises that will help you as you kind of
7 reacclimate into society when you come out.

8 You are prohibited from being a part of any particular
9 criminal gang. That's going to include groups like the
10 skinheads, which you have some affiliation with, the motorcycle
11 gang that you grew up around, or any other criminal gang. You
12 can't be a prospect, a member, or associate in any of those
13 gangs.

14 If you aren't released from BOP at the end of your
15 sentence to go to a halfway house, then you'll spend your first
16 120 days of supervised release or up to 120 days in a halfway
17 house setting. That will help you get a job, get a place to
18 live. You can earn up to six hours a week of good time passes
19 while you're living at that program, assuming you're eligible
20 based on following their rules and regulations.

21 The last condition is what's called a search
22 condition. What that means is that the probation office has my
23 authority to search you or your house, your car or your business
24 for evidence if they have a good reason to believe that you have
25 violated the law or you're not complying with these conditions

1 of supervision we talked about.

2 They aren't going to come in and break your things or
3 scare your family, come in the middle of night, things like
4 that, but if they come and do a home visit and you smell of
5 alcohol or they smell marijuana or they see evidence of, you
6 know, guns and things laying around, then they're going to come
7 in and take a look around. And they can bring the marshals with
8 them for their safety or yours as part of that supervision.

9 I will order you pay the \$100 special assessment. As
10 you know from having been through the system once before, there
11 are some benefits to getting that paid off before you arrive at
12 prison so you don't have to take, you know, 25 cents out of
13 every paycheck to pay that off. So if you are able to pay that
14 or borrow the money to pay it before you leave, that's just one
15 less thing for you to worry about when you arrive.

16 I do find you don't have the ability to pay a fine and
17 no fine will be imposed. I will order that you forfeit the RG
18 Industries Model RG14 .22-caliber revolver and assorted
19 ammunition that was seized from you in January of 2013 as was
20 otherwise outlined in the preliminary order of forfeiture that
21 was filed on June 10th of 2014.

22 The last thing I want to talk to you about is your
23 right to appeal. You have 14 days from today to appeal the
24 decision that I have just imposed. If you don't file an appeal
25 in the next 14 days, you forever give up your right to appeal

1 this particular sentence. If you decide you want to appeal, you
2 just need to let Mr. Carr know and he'll take care of getting
3 the paperwork filed.

4 Mr. Carr, were you appointed in this case?

5 MR. CARR: I am, Your Honor.

6 THE COURT: Then that won't cost you anything.

7 Mr. Carr will continue to assist you throughout that appeal
8 process.

9 What is really important is that Mr. Carr knows
10 whether you want to appeal or not. A lot of defendants sitting
11 where you're sitting are feeling all kinds of things and they're
12 sure they told their lawyer one thing and their lawyer is sure
13 they heard something entirely different, and years down the road
14 we have to have a hearing where one lawyer testifies against a
15 client, and that's not good for anybody.

16 So the safest thing to do is put it in writing, "I
17 do," or, "I do not want to appeal." You sign it and you date it
18 and give it to Mr. Carr and it protects both of you. But if for
19 whatever reason you don't want to write it down, you just have
20 to let him know in the next 14 days, a telephone call or
21 whatnot, that you want that paperwork filed, and he'll take care
22 of getting that filed for you.

23 THE COURT: Mr. Wendel, do you have any counts to be
24 dismissed?

25 MR. WENDEL: No. It was a one-count indictment.

1 THE COURT: Mr. Ward, I saw as I was talking to you
2 about some of the facts of your case that you reacted to
3 something I said that perhaps was wrong. Did you have anything
4 you wanted me to correct as part of the record before we end
5 here today?

6 DEFENDANT WARD: Just when I was on federal probation
7 I was never violated.

8 THE COURT: Okay.

9 DEFENDANT WARD: They just noted some -- just noted
10 some things.

11 THE COURT: Okay. So like a modification or a notice
12 of problems?

13 DEFENDANT WARD: They never even modified me. They
14 just, I mean, didn't even really say anything to me.

15 THE COURT: Okay.

16 DEFENDANT WARD: Just one time I got a warning for
17 being around my wife because she's a felon.

18 THE COURT: Okay.

19 DEFENDANT WARD: It was just things like that.

20 THE COURT: Thank you for correcting that part of the
21 record. I'm sorry that I made that mistake in my recitation. I
22 can tell you that whether you were officially revoked or not
23 wouldn't have changed the decision I made with respect to the
24 sentence.

25 Anything else that we need to talk about here today?

1 MR. WENDEL: No, Your Honor.

2 THE COURT: Mr. Carr?

3 MR. CARR: Nothing further, Your Honor.

4 THE COURT: We are adjourned. Thanks.

5 (Proceedings concluded at 2:25 p.m.)

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C E R T I F I C A T E

I, Kelli M. Mulcahy, a Certified Shorthand Reporter of the State of Iowa and Federal Official Realtime Court Reporter in and for the United States District Court for the Southern District of Iowa, do hereby certify, pursuant to Title 28, United States Code, Section 753, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated at Des Moines, Iowa, this 2nd day of October, 2014.

/s/ Kelli M. Mulcahy
Kelli M. Mulcahy, CSR No. 941, RMR, CRR
Federal Official Court Reporter